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Ultimate Fighting Championship and UFC*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

Cung Le, Nathan Quarry, Jon Fitch, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

Defendant.

Case No. 5:14-cv-05484 EJD

**DECLARATION OF KIRK D. HENDRICK
IN SUPPORT OF DEFENDANT ZUFFA,
LLC'S CONSOLIDATED MOTION TO
TRANSFER VENUE UNDER 28 U.S.C.
§ 1404(a)**

Date: May 7, 2015
Time: 9:00 a.m.
Place: Courtroom 4
Judge: Hon. Edward J. Davila

BOIES, SCHILLER & FLEXNER LLP
OAKLAND, CALIFORNIA

Luis Javier Vazquez and Dennis Lloyd Hallman, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting Championship and UFC,

Defendant.

Case No. 5:14-cv-05591 EJD

Brandon Vera and Pablo Garza, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting Championship and UFC,

Defendant.

Case No. 5:14-cv-05621 EJD

1 I, KIRK D. HENDRICK, declare as follows:

2 1. I am over 21 years old and have personal knowledge of the information in this
3 declaration. I have been employed by Zuffa, LLC (“Zuffa”) since 2002 and I am currently
4 Executive Vice President and Chief Legal Officer for Zuffa. I have access to and have reviewed
5 business records relating to the information in this declaration. I have personal knowledge of the
6 facts stated in this declaration and if called to testify, I would and could competently testify to
7 those facts.

8 2. Zuffa is, and was at the time of the filing of this lawsuit, a Nevada limited liability
9 company with its principal place of business in Las Vegas, Nevada. Zuffa was established in
10 December 2000 and has maintained its headquarters in Las Vegas, Nevada since that time.

11 3. Zuffa’s headquarters is located at 2960 W. Sahara Avenue, Las Vegas, Nevada
12 89102.

13 4. Almost all of Zuffa’s books and records, including its contract files and its central
14 information technology systems, are kept in Las Vegas, Nevada.

15 5. In 2011, Zuffa purchased the assets of Explosion Entertainment, LLC d/b/a
16 Strikeforce, a mixed martial arts promoter based in San Jose. The contracts, books, and records
17 that Zuffa acquired or created regarding Strikeforce are maintained at Zuffa’s headquarters in Las
18 Vegas.

19 6. Almost all of Zuffa’s officers and employees with responsibility for negotiating
20 and executing contracts and conducting business relationships with fighters, event venues,
21 sponsors, merchandisers, and other business partners, are based in Las Vegas. These officers and
22 employees include Chairman and CEO Lorenzo Fertitta, President Dana White, Senior Executive
23 Vice President and Chief Operating Officer Ike Lawrence Epstein, Executive Vice President and
24 Chief Legal Officer Kirk Hendrick, Senior Vice President of Event Development and Operations
25 Peter Dropick, and Senior Vice President of Global Marketing Partnerships, Mike Mossholder —
26 all of whom live and work in the District of Nevada.

27 7. If this case were to go to trial, Zuffa anticipates that many of these senior
28 executives are likely to be called as witnesses. Also, at least one executive from Zuffa would

1 participate in the trial as a corporate representative. In-house counsel from Zuffa also intend to
2 attend important pre-trial hearings.

3 8. No Zuffa employees live within the Northern District of California. Zuffa does
4 not own or lease any office space within the Northern District of California. Zuffa does not
5 maintain any of its books and records within the Northern District of California. With the
6 exception of on-site work conducted during UFC events in the Northern District of California,
7 which occur approximately once a year, no Zuffa executive regularly performs work within the
8 Northern District of California

9 9. Other than employees based in its international offices, almost all of Zuffa's
10 employees are located in Las Vegas, Nevada. Zuffa maintains an office in Burbank, California
11 which is responsible only for some content production operations. None of Zuffa's witnesses,
12 records, and executive decision-making personnel with respect to the contracts and business
13 relationships at issue are located in California. Litigation of this case in the Northern District of
14 California would require Zuffa to incur numerous expenses that it would not incur if this case
15 were litigated in Las Vegas, including travel, lodging, and meal expenses. Zuffa would also
16 suffer interruption of operations if executives were required to spend extended periods of time
17 outside of Las Vegas.

18 10. Cung Le is party to several agreements with Zuffa, including:

- 19 a. "Promotional and Ancillary Rights Agreement," which was executed on
20 September 15, 2011 by Dana White on behalf of Zuffa. An excerpt of a true
21 and correct copy of this agreement is attached as Exhibit A.
- 22 b. "Merchandise Rights Agreement," which was executed on April 18, 2013 by
23 Ike Lawrence Epstein on behalf of Zuffa. An excerpt of a true and correct
24 copy of this agreement is attached as Exhibit B.
- 25 c. "Bout Agreement" for participation in the event "UFC Asia Fight Series,"
26 which was executed on August 15, 2014 by Ike Lawrence Epstein on behalf of
27 Zuffa. An excerpt of a true and correct copy of this agreement is attached as
28 Exhibit C.

11. Jon Fitch is party to several agreements with Zuffa, including:

- a. "Promotional and Ancillary Rights Agreement," which was executed on December 31, 2012 by Dana White on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit D.
- b. "Merchandise Rights Agreement," which was executed on November 28, 2008 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit E.
- c. "Bout Agreement" for participation in the event "UFC 156," which was executed on December 21, 2012 by Ike Lawrence Epstein on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit F.

12. Pablo Garza is party to several agreements with Zuffa, including agreements with Zuffa affiliate WEC Productions, LLC that have been assigned to Zuffa, including:

- a. "Promotional and Ancillary Rights Agreement," which was executed on September 7, 2011 by Dana White on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit G.
- b. "Promotional and Ancillary Rights Agreement," which was executed on February 18, 2013 by Dana White on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit H.
- c. "Merchandise Rights Agreement" between Garza and Zuffa affiliate WEC Productions, LLC, which was executed on September 27, 2010, and which was assigned to Zuffa on October 29, 2010. An excerpt of a true and correct copy of this agreement is attached as Exhibit I. This agreement was executed by Kirk D. Hendrick on behalf of WEC Productions, LLC.
- d. "Exclusive Promotional and Ancillary Rights Agreement" between Garza and Zuffa affiliate WEC Productions, LLC, which was executed on September 28, 2010, and which was assigned to Zuffa on October 29, 2010. An excerpt of a

1 true and correct copy of this agreement is attached as Exhibit J. This
2 agreement was executed by Dana White on behalf of WEC Productions, LLC.

- 3 e. "Bout Agreement" for participation in the event "UFC on Fuel," which was
4 executed on March 18, 2013 by Ike Lawrence Epstein on behalf of Zuffa. An
5 excerpt of a true and correct copy of this agreement is attached as Exhibit K.

6 13. Brandon Vera or his corporation Truth Enterprises, Inc., which Mr. Vera used to
7 contract for his services, is party to several agreements with Zuffa, including:

- 8 a. "Exclusive Promotional and Ancillary Rights Agreement," which was
9 executed on January 7, 2009 by Kirk D. Hendrick on behalf of Zuffa. An
10 excerpt of a true and correct copy of this agreement is attached as Exhibit L.
11 b. "Exclusive Promotional and Ancillary Rights Agreement," which was
12 executed on December 7, 2009 by Dana White on behalf of Zuffa. An excerpt
13 of a true and correct copy of this agreement is attached as Exhibit M.
14 c. "Merchandise Rights Agreement," which was executed on August 15, 2012 by
15 Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of
16 this agreement is attached as Exhibit N.
17 d. "Bout Agreement" for participation in the event "UFC 164," which was
18 executed on August 22, 2013 by Ike Lawrence Epstein on behalf of Zuffa. An
19 excerpt of a true and correct copy of this agreement is attached as Exhibit O.

20 14. Dennis Hallman is party to several agreements with Zuffa, including:

- 21 a. "Exclusive Promotional and Ancillary Rights Agreement," which was
22 executed on August 13, 2009 by Kirk D. Hendrick on behalf of Zuffa. An
23 excerpt of a true and correct copy of this agreement is attached as Exhibit P.
24 b. "Exclusive Promotional and Ancillary Rights Agreement," which was
25 executed on January 11, 2011 by Dana White on behalf of Zuffa. An excerpt
26 of a true and correct copy of this agreement is attached as Exhibit Q.
27
28

c. “Merchandise Rights Agreement,” which was executed on January 12, 2011 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit R.

d. “Bout Agreement” for participation in the event “UFC 140,” which was executed on November 7, 2011 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit S.

15. Nathan Quarry is party to several agreements with Zuffa, including:

a. “Exclusive Promotional and Ancillary Rights Agreement,” which was executed on October 13, 2008 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit T.

b. “Merchandise Rights Agreement,” which was executed on October 13, 2008 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit U.

c. “Bout Agreement” for participation in the event “UFC 21,” which was executed on January 13, 2010 by Kirk D. Hendrick on behalf of Zuffa. An excerpt of a true and correct copy of this agreement is attached as Exhibit V.

16. Javier Vasquez is party to several agreements with Zuffa, including agreements with Zuffa affiliate WEC Productions, LLC, that have been assigned to Zuffa, including:

a. “Merchandise Rights Agreement,” between Vasquez and Zuffa affiliate WEC Productions, LLC, which was executed on August 3, 2009, and which was assigned to Zuffa on November 29, 2010. An excerpt of a true and correct copy of this agreement is attached as Exhibit W. This agreement was executed by Kirk D. Hendrick on behalf of WEC Productions, LLC.

b. “Exclusive Promotional and Ancillary Rights Agreement,” between Vasquez and Zuffa affiliate WEC Productions, LLC, which was executed on August 3, 2009, and which was assigned to Zuffa on November 29, 2010. An excerpt of a true and correct copy of this agreement is attached as Exhibit X. This

1 agreement was executed by Kirk D. Hendrick on behalf of WEC Productions,
2 LLC.

3 c. “Exclusive Promotional and Ancillary Rights Agreement,” between Vasquez
4 and Zuffa affiliate WEC Productions, LLC, which was executed on September
5 22, 2010, and which was assigned to Zuffa on November 29, 2010. This
6 agreement was executed by Dana White on behalf of WEC Productions, LLC.
7 An excerpt of a true and correct copy of this agreement is attached as
8 Exhibit Y.

9 d. “Bout Agreement” for participation in the event “UFC on Versus 4,” which
10 was executed on April 5, 2011 by Kirk D. Hendrick on behalf of Zuffa. An
11 excerpt of a true and correct copy of this agreement is attached as Exhibit Z.

12 17. I have attached excerpts of the agreements in paragraphs 10 through 16 because
13 other portions of these agreements contain personal information and/or competitively sensitive
14 business information that is not pertinent to the immediate motion to transfer. Zuffa will reach
15 out to the Plaintiffs to discuss an appropriate protective order for submission to the Court in order
16 to preserve the confidentiality of this sensitive information in the event Plaintiffs wish to submit
17 other, confidential portions of the agreements to the Court in connection with this motion.

18 18. As set out specifically in the two paragraphs below, each and every one of the
19 contracts listed in paragraphs 10 through 16 either expressly or through incorporation by
20 reference contains a forum selection provision. All these agreements expressly provide that they
21 were delivered at and shall be deemed made at Las Vegas, Nevada and designate the law of the
22 State of Nevada as the law governing the interpretation of the contract.

23 19. For exhibits B, C, D, F, H, K, O, the forum selection provision states: “ZUFFA
24 and Fighter hereby (a) expressly consent to the exclusive personal jurisdiction and venue of the
25 state and federal courts located in Clark County, Nevada for any action brought by either party to
26 interpret or enforce any provision of this Agreement; and (b) agree not to assert (by way of
27 motion, as a defense or otherwise) that such legal proceeding has been brought in an inconvenient
28 forum.”

20. For exhibits A, E, G, I, J, L, M, N, P, Q, R, S, T, U, V, W, X, Y, Z, the forum selection provision states: "ZUFFA and Fighter agree that the exclusive jurisdiction and venue for the resolution of any dispute arising from or relating to this Agreement shall lie in the Eighth Judicial District Court for the State of Nevada, sitting in Las Vegas, Nevada."

21. Other fighters who have fought in UFC bouts and who Plaintiffs allege are members of the putative class have also agreed to similar or identical provisions to the two described in paragraphs 19 and 20 in their Bout Agreements, Merchandise Rights Agreements, or Promotional and Ancillary Rights Agreements, as well as to provisions stating that the contract will governed by Nevada law.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this 27th day of January, 2015.



KIRK D. HENDRICK

Executive Vice President and Chief Legal Officer,
Zuffa, LLC

BOIES, SCHILLER & FLEXNER LLP
OAKLAND, CALIFORNIA